

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Howard Ricardo Hermitt,

Plaintiff,

VS.

Jon Ozmint, Director SCDC;
Bernard McKie, Warden Kirkland
C.I.;
Sgt. J. E Cooper, Kirkland, C.I.;
Officer Freddy Bowell, Kirkland,

Defendants.

Civil Action No.: 8:07-2855-GRA-BHH

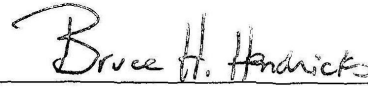
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On March 24, 2008, the defendants filed a motion for summary judgment. On March 25, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on May 5, 2008, giving the plaintiff through May 29, 2008, to file his response to the motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v.*

Carlson, 882 F.2d 93 (4th Cir. 1989).

A handwritten signature in cursive script that reads "Bruce H. Hendricks". The signature is written in dark ink and is positioned above a horizontal line.

BRUCE H. HENDRICKS
UNITED STATES MAGISTRATE JUDGE

June 3, 2008
Greenville, South Carolina Carolina